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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,476	07/24/2003	Mark Ruttenberg	717958.8	1475

21888 7590 03/22/2007
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EXAMINER

BODDIE, WILLIAM

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/604,476	Applicant(s) RUTTENBERG, MARK	
	Examiner William L. Boddie	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-10,13-21,24-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-10,13-21,24-26 and 28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. In an amendment dated, January 5th, 2007, the Applicant amended claims 1, 21 28 and cancelled claims 3-5, 11-12, 22-23 and 29. Currently claims, 1-2, 7-10, 13-21, 24-26 and 28 are pending.

Response to Arguments

2. On page 10 of the Remarks, the Applicant argues that Mankins discloses a pair of mounts. The Examiner respectfully disagrees. The section of Mankins device that is seen as the mount, 1408 in figs. 67-68, is one solid piece. As the mount is one solid piece it is seen as a *single* mount.

The Applicant further argues that the Mankins never contemplates that the vehicle will be located within a retail establishment.

In response, the Applicant is reminded that the current claim states, "located within a retail *outlet*," not the argued retail establishment. It should be noted that the broadest reasonable interpretation of retail outlet, could be seen to include strip malls and other similar outdoor retail outlets where vehicular use is not uncommon.

Furthermore it seems clear that Mankins intends for the display to be used within retail locations, expressly disclosing movie theaters, and 24-hour stores for example. While true Mankins does not contemplate the vehicle being located within a retail establishment, Mankins does disclose several other embodiments. Specifically, the non-mobile display embodiments of Mankins (col. 28, lines 46-56) are seen as fully satisfying the requirement that the display be located in a retail outlet.

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3. On page 11 of the Remarks, the Applicant further argues that there is no motivation to modify Mankins to include a center pole and single mount as this would destroy the function of Mankins. As discussed above, Mankins provides for non-mobile versions of the display. Therefore modifying the display of Mankins to be permanently mounted in some manner is actually encouraged by Mankins.

4. On page 13 of the Remarks, the Applicant traverses the rejection of claims 17-18, 20 and 26. Specifically, the Applicant argues that Goldman teaches away from the invention by requiring that the displays are all facing in one direction.

The Examiner respectfully disagrees. First, Goldman is not required to satisfy all the claim limitations of the each claim. If Goldman had anticipated each limitation there would be no need for the Mankins and Pettus references as shown below. The only teaching for which Goldman is being used is the limitation of a backing member.

Furthermore Goldman's disclosure of a modular display, "displaying one or more flat multi-sided signage panels in a desired orientation" is not seen as prohibitive of having multiple panels facing in generally different directions. Specifically, the broadest reasonable interpretation of orientation allows for the panels to face generally different directions.

5. On pages 15-16 of the Remarks the Applicant traverses the rejection of claim 19. The Applicant argues that Gebka teaches away from using rigid PVC.

The Examiner respectfully disagrees. While Gebka does *include* "flexible" PVC in the sign channel, the bulk of the channel is still constructed out of a rigid PVC (col. 1, lines 49-52). As the current claim limitation only requires that the polymeric material

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include a moderately expanded, rigid PVC material and does not limit the exterior shell to one material, Gebka is seen as satisfying the limitations requiring a moderately expanded, rigid PVC material.

Those arguments not addressed above are moot in view of the new grounds of rejection seen below.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 7-10, 13-16, 21 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,850,209) in view of Pettus (Des. 380,011).

With respect to claim 1, Mankins discloses, an advertising display comprising: a plurality of display panels including at least one first display panel (1036 in fig. 42), at least one second display panel (second exploded side display in fig. 42; col. 55, lines 39-42) and at least one third display panel (back panel 144 in fig. 42), the plurality of display panels cooperatively forming a polygonal display (triangular in fig. 43), wherein the plurality of display panels are operatively connected to a support frame (1026, 1035, 1032 etc. in fig. 42), the support frame being operatively connected to a single mount (1408 in figs. 67-68; one piece roof protector, qualifies as a single mount), wherein the mount is adapted and configured to operatively connect the polygonal display to a support mechanism (vehicle in fig. 67; col. 55, lines 29-36) in a manner such that the

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polygon display can be supported by and from the support mechanism solely via the single mount (clear from figs. 67-68); wherein the polygonal display is located within a retail outlet in an elevated position (col. 36, lines 9-27); with at least one of the plurality of display panels having an electronic panel display exposed for display of electronic visual advertising information thereon (col. 16, lines 51-57) and any remaining display panels of the plurality of display panels can display visual advertising information (col. 59, lines 23-27), wherein the at least one first display panel, the at least one second display panel and the at least one third display panel are facing generally in different directions (clear from fig. 43); and a source of electronic advertising information (col. 16, lines 58-67) operably associated with the at least one electronic display panel for displaying the electronic visual advertising information on the at least one electronic panel display.

Mankins further proposes non-mobile versions of the device (fig. 22; col. 28, lines 46-56).

Mankins does not expressly disclose wherein the single mount is adapted and configured to operatively connect the polygonal display to a center pole such that the polygon display can be supported by and from the center pole.

Pettus discloses, a polygon display advertising module (fig. 1), wherein a single mount (octagon bottom in fig. 4) is adapted and configured to operatively connect the polygonal display to a center pole (fig. 1) such that the polygon display can be supported by and from the center pole (clear from figs. 1-3) solely via the single mount; wherein the polygonal display is located within a retail outlet in an elevated position

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(from the title it is clear that the device is intended for retail indoor use ("floor mounted" and "advertising")).

Pettus and Mankins are analogous art because they are both from the same field of endeavor namely, multi-display advertising modules.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the vehicle of Mankins, with the center pole of Pettus as well as to reconfigure the vehicle mount of Mankins in a manner similar Pettus to join the display with the center pole.

The motivation for doing so would have been, to allow placement of the displays in locations where driving a vehicle is not feasible, thereby increasing the advertising network and reaching more consumers with the advertising.

With respect to claim 2, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the visual advertising information includes at least one printed advertisement (col. 59, lines 23-27).

With respect to claim 7, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the support frame (1026, 1035, 1032 etc. in fig. 42) includes a plurality of angle brackets (1025 in fig. 42; col. 55, lines 56-58).

With respect to claim 8, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the support frame includes a plurality of wall members (each display panel 1036 is seated in a wall member; one for each side of the triangle).

With respect to claim 9, Mankins and Pettus disclose, the advertising display as set forth in claim 8 (see above).

Mankins further discloses, wherein the plurality of wall members each include a top flange portion located on the top of each of the plurality of wall members and a bottom flange portion located on the bottom of each of the plurality of wall members (note the flanges on 1023 in fig. 42; col. 55, lines 46-50)

With respect to claim 10, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, further including at least one attachment mechanism connected to the at least one electronic panel display and connected to the support frame (1035 in fig. 42).

With respect to claim 13, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, wherein the electronic advertising information for the at least one electronic display panel is digitally stored (the information is digitally cached locally in the device; col. 16, lines 58-67)

With respect to claim 14, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

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Mankins further discloses, wherein the source of the electronic advertising information for the at least one electronic display panel is from a global computer network (col. 4, lines 53-61).

With respect to claim 15, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, further including a plurality of the advertising displays connected to the source of electronic advertising information (clear from fig. 18), wherein the plurality of electronic advertising displays are positioned in a spaced apart relationship (clear from fig. 43).

With respect to claim 16, Mankins and Pettus disclose, the advertising display as set forth in claim 15 (see above).

Mankins further discloses, wherein the source of advertising information includes digitally stored advertising information provided to the plurality of advertising displays (clear from fig. 18), wherein the plurality of advertising displays (panel 1-8 in fig. 45) are operatively connected to at least one splitter (1042 in fig. 45), wherein the at least one splitter is operatively connected to at least one video receiver (1035 in fig. 45), wherein the at least one video receiver is cooperatively connected to at least one video transmitter (176 in fig. 18), wherein the at least one video transmitter is operatively connected to at least one processor (350 in fig. 18) that utilizes the digitally stored advertising information.

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With respect to claim 21, claim 21 is merely a method claim reciting the identical limitations of claim 1. Therefore claim 21 is rejected on the same merits shown above in claim 1.

With respect to claim 24, claim 24 is merely a method claim reciting the identical limitations of claim 15. Therefore claim 24 is rejected on the same merits shown above in claim 15.

With respect to claim 25, claim 25 is merely a method claim reciting the identical limitations of claim 16. Therefore claim 25 is rejected on the same merits shown above in claim 16.

8. Claims 17-18, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pettus (Des. 380,011) and further in view of Goldman (US 4,679,341).

With respect to claim 17, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Mankins further discloses, including an exterior shell (1402 in figs. 67-68), having at least one opening therein (1404 in fig. 72) and including printed advertisements in lieu of electronic displays.

Mankins does not expressly disclose at least one backing member.

Goldman discloses, a multiple panel advertising display including an exterior shell (11 in fig. 3), having at least one opening therein (18a-c in fig. 3) and positioned over at least one backing member (12 in fig. 3), wherein the at least one backing member is positioned adjacent to a support frame (40 in fig. 3) and the exterior shell

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and the at least one backing member are operatively connected together (fig. 4) to form a pocket for receiving a removable printed advertisement (27 in fig. 1) so that the printed advertisement can be viewed through the at least one opening in the exterior shell (clear from fig. 1).

Goldman, Pettus and Mankins are analogous art because they are both drawn to the same field of endeavor namely, design and construction of multi-panel advertising displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace one side of the triangular electronic display of Mankins and Pettus with a printed advertisement backing member as taught by Goldman.

The motivation for doing so would have been to lessen the complexity of the device as well as to lower the cost (Goldman; col. 1, lines 39-44).

With respect to claim 18, Mankins, Pettus and Goldman disclose, the advertising display as set forth in claim 17 (see above).

Mankins further discloses, wherein the exterior shell includes polymeric material (col. 55, lines 24-27).

Goldman further discloses, wherein the backing member includes polymeric material (col. 5, lines 60-64).

With respect to claim 20, Mankins, Pettus and Goldman disclose, the electronic advertising display as set forth in claim 17 (see above).

Goldman further discloses, wherein the at least one backing member (12 in fig. 3) is attached to a u-shaped frame (30-33 in fig. 3), wherein the u-shaped frame is

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attached to the exterior shell (clear from fig. 2) and wherein the backing member further includes at least one stop for limiting longitudinal movement of the exterior shell in relationship to the support frame (should be clear that 30, 33 and 36 in fig. 3 limit the movement of the exterior shell, 11).

With respect to claim 26, claim 26 is merely a method claim reciting the identical limitations of claim 17. Therefore claim 26 is rejected on the same merits show above in claim 17.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pettus (Des. 380,011) in view of Goldman (US 4,679,341) and further in view of Gebka (5,458,307).

With respect to claim 19, Mankins, Pettus and Goldman disclose, the advertising display as set forth in claim 18 (see above).

Neither Mankins, Pettus nor Goldman expressly discloses, wherein the polymeric material includes moderately expanded, rigid polyvinyl chloride material.

The use of rigid pvc as a structural material is especially prevalent in the art. One such example is Gebka, which discloses the use of rigid pvc (col. 2, lines 33-42).

Gebka, Mankins, Pettus and Goldman are all analogous art because they are all from the same field of endeavor namely, multi-panel advertising displays.

At the time of the invention it would have been obvious to use the rigid pvc taught by Gebka in the construction of the plastic shell and backing member of Mankins, Pettus and Goldman.

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The motivation for doing so would have been the prevalence of rigid pvc in the art as an encasement and structure material in addition to its water resistance.

10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pettus (Des. 380,011) and further in view of Boland (US 1,537,523).

With respect to claim 28, Mankins and Pettus disclose, the advertising display as set forth in claim 1 (see above).

Neither Mankins nor Pettus expressly disclose, wherein the center pole is a pipe.

Boland discloses, a polygonal display (fig. 1) that is operatively connected to a center pole (10 in fig. 1) in a manner such that the polygon display can be supported by and from the center pole solely via a single mount (12 in fig. 1), wherein the center pole is a pipe (page 1, lines 62-75).

Boland, Pogue and Mankins are analogous art because they are both from the same field of endeavor namely polygonal displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the center pole of Mankins and Pettus with the pipe of Boland.

The motivation for doing so would have been a simpler construction of the device, lessened weight of the support mechanism, and finally the allowance to run any power / data cables for the device through the pipe, giving a more aesthetic appeal to the overall display.

Conclusion

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11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

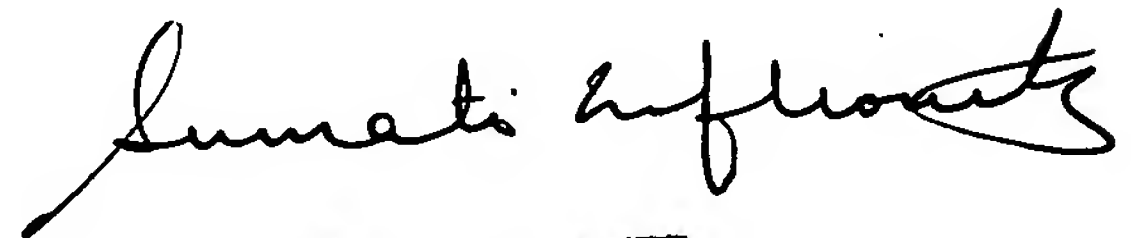
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Boddie whose telephone number is (571) 272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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